



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,409	03/21/2006	Michal Kalavsky	ZITP03P01030	2678
24131 7590 03/17/2010 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER				
FREAY, CHARLES GRANT				
ART UNIT		PAPER NUMBER		
3746				
MAIL DATE		DELIVERY MODE		
03/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,409

Applicant(s)

KALAVSKY ET AL.

Examiner

Charles G. Freay

Art Unit

3746

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 24, 25, 27 and 30-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 33 is/are allowed.
- 6) ☒ Claim(s) 20-22, 24, 27, 30-32, 34-36 and 39-41 is/are rejected.
- 7) ☒ Claim(s) 37 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 3, 2010 has been entered.

Claim Objections

Claims 37 and 38 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 37 and 38 are identical to claims 31 and 32, after the amendment of February 5, 2010 which has been entered.

Claim Rejections - 35 USC § 112

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is vague and indefinite because it is unclear which of the "at least one radial sliding bearing(s)" from claim 20 is being referred to by "said radial sliding bearing" in lines 2 and 3. The examiner suggests referring to "an additional said radial sliding bearing".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by Kalavsky (USPN 7,131,823).

Kalavsky discloses a pump having an integrated, electronically commutated wet-running motor 23 with a rotor 15 mounted on a shaft 18 by an axial bearing 27. As set forth in Col. 1 lines 24-44 the outer diameter of the bearing 27 is pressed into the rotor. Thus the outer surface of the bearing forms a seal with the adjacent rotor surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 20-22, 24, 27, 34, 35, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over French reference FR2608228 (hereinafter ('228)) in view of Yuda (USPN 5,778,760).

('228) discloses a pump for a dishwasher having an integrated, electronically commutated wet-running motor 122, 126 with a rotor 122 mounted on a shaft 34 by a radial bearing 35. The radial bearing is held in the rotor by snap rings 40, 41. The rotor has an impeller 117 mounted thereto and the motor rotor is within a shield 109. ('228)

does not set forth that there is an o-ring holding the bearing in the rotor and sealing the radial sliding bearing. Yuda discloses that snap rings and O-rings are interchangeable (see col. 1 lines 54 and 55). At the time of the invention it would have been obvious to one of ordinary skill in the art to utilize O-rings in place of the snap rings of ('228) as a well known and equivalent securing means having the added benefit of sealing the outer path of the bearing.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over ('228) in view of Yuda as applied to claim 20 above, and further in view of Bowes et al (USPN 5,708,313).

As set forth above ('228) in view of Yuda discloses the invention substantially as claimed but does not disclose that the rotor is encased in plastic. Bowes et al discloses a similar impeller and rotor assembly having a rotor encased in plastic. At the time of the invention it would have been obvious to one of ordinary skill in the art to encase the rotor of ('228) with plastic as taught by Bowes et al in order to protect the magnets and create a more durable system.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over ('228) in view of Yuda as applied to claim 20 above, and further in view of Wright (USPN 6,191,506).

As set forth above ('228) in view of Yuda discloses the invention substantially as claimed but does not disclose a circuit board, a spring contact and the stator being

connected to the circuit board by the spring contact. Wright discloses an electric motor having a circuit board 40, a spring contact (Fig. 8) and the stator being connected to the circuit board by the spring contact. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide a circuit board connected to the stator of the ('228) motor by a spring contact in order to provide a mechanism for controlling and providing power to the motor.

Allowable Subject Matter

Claims 25 and 33 are allowed.

Claims 31 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

On March 10, 2010 the examiner called Mr. Weichselbaum to discuss proposed amendments to the claims but was unable to reach him in time to make the amendments.

With regards to claim 20 the examiner suggests setting forth in line 10 that "an O-ring mounted on a radially outer surface of said at least one radial sliding bearings and holding said at least...". Such an amendment would define over the ('228) reference which discloses the snap rings or O-rings being mounted adjacent to an end surface of the bearing.

With regards to claim 30 the examiner was going to suggest setting forth an additional radial sliding bearing spaced from the first radial sliding bearing and having a sealed space therebetween. At col. 5 lines 34-43 the Kalavsky reference makes clear that fluid is required to pass through and form a film along the radial bearing. Thus an amendment as suggested above would define over Kalavsky.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner, Art Unit 3746

CGF
March 14, 2010